



[4830-01-p]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9631]

RIN 1545-BL66

Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that authorize the disclosure of certain items of return information to the Bureau of the Census (Bureau) in conformance with section 6103(j)(1) of the Internal Revenue Code (Code). The final regulations are made pursuant to a request from the Secretary of Commerce. Because the return information will be disclosed to the Bureau in statistical format, specific taxpayers will not be identified, and, therefore, no taxpayers are affected by the disclosures authorized by this guidance.

DATES: Effective Date: These regulations are effective on **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

Applicability Date: For dates of applicability, see § 301.6103(j)(1)-1(e).

FOR FURTHER INFORMATION CONTACT: Melissa Avrutine, (202) 622-7950 (not a toll-free number).

## SUPPLEMENTARY INFORMATION:

### **Background**

This document contains amendments to 26 CFR part 301. Section 6103(j)(1)(A) authorizes the Secretary of Treasury to furnish, upon written request by the Secretary of Commerce, such return or return information as the Secretary of Treasury may prescribe by regulation to officers and employees of the Bureau for the purpose of, but only to the extent necessary in, the structuring of censuses and conducting related statistical activities authorized by law. Section 301.6103(j)(1)-1 of the existing regulations further defines such purposes by reference to 13 U.S.C. chapter 5 and provides an itemized description of the return information authorized to be disclosed for such purposes.

By letter dated July 24, 2009, the Secretary of Commerce requested that additional items of return information be disclosed to the Bureau for purposes of allowing the Bureau to study a developing trend of increased use of contract workers. Specifically, the Secretary of Commerce requested disclosure of the following additional items: (1) total number of documents reported on Form 1096 transmitting Forms 1099-MISC and (2) total amount reported on Form 1096 transmitting Forms 1099-MISC.

Section 301.6103(j)(1)-1 of the regulations formerly permitted disclosure of the total number of documents reported on Form 1096 transmitting Forms 1099-MISC and the total amount reported on Form 1096 transmitting Forms 1099-MISC. At the request of the Secretary of Commerce, the Treasury Department removed these items from the list of items of return information authorized to be

disclosed, as disclosure of this return information was no longer necessary (See TD 9372, 72 FR 73262 [Dec. 27, 2007]).

In 2009, the Secretary of Commerce determined that these items of return information were needed again to provide critical data about contract labor necessary to estimate total employment and payroll in the United States. The employment and compensation data compiled by the Bureau are important to analysts and policy makers in both the public and private sectors. Thus, the Secretary of Commerce asserted that good cause existed to amend § 301.6103(j)(1)-1 of the regulations to restore these items to the list of items of return information that may be disclosed to the Bureau. The Treasury Department and the IRS agree that amending existing regulations to permit disclosure of these items to the Bureau is appropriate to meet the analytical needs of the Bureau.

### **Explanation of Provisions**

On August 26, 2010, the IRS and the Treasury Department published temporary regulations under § 6103(j)(1) and issued a notice of proposed rulemaking cross-referencing those temporary regulations. See TD 9500 (75 FR 52458), REG-137486-09 (75 FR 52486), and 26 CFR § 301.6103(j)(1)-1T. No comments were received, and no public hearing was requested or held. These final regulations adopt the proposed rules with no substantive change.

Section 301.6103(j)(1)-1T authorizes disclosure of three items of return information. Upon publication, these final regulations remove § 301.6103(j)(1)-1T because all three items of return information listed in § 301.6103(j)(1)-1T will

now be contained in § 301.6103(j)(1)-1. On December 31, 2007, temporary regulations were published authorizing one of the items of return information contained in § 301.6103(j)(1)-1T: the disclosure of categorical information on total qualified research expenses in three ranges (greater than zero, but less than \$1 million; greater than or equal to \$1 million, but less than \$3 million; and greater than or equal to \$3 million) (§ 301.6103(j)(1)(xxv)-1T). See TD 9500 (75 FR 52458). On August 26, 2010, those temporary regulations were finalized, but § 301.6103(j)(1)(xxv)-1T was inadvertently not removed. Accordingly, these final regulations remove those temporary regulations as well as the remaining two items of return information contained in § 301.6103(j)(1)-1T: total number of documents reported on Form 1096 transmitting Forms 1099-MISC and the total amount reported on Form 1096 transmitting Forms 1099-MISC (subsections xxix and xxx of section 6103(j)(1)-1T).

### **Special Analyses**

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small

Business Administration for comment on its impact on small business, and no comments were received.

### **Drafting Information**

The principal author of these regulations is Melissa Avrutine, Office of the Associate Chief Counsel (Procedure & Administration).

### **List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

### **Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 301 is amended as follows:

#### **PART 301—PROCEDURE AND ADMINISTRATION**

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Par. 2. Section 301.6103(j)(1)-1 is amended by:

1. Adding paragraphs (b)(3)(xxix) and (b)(3)(xxx).
2. Revising paragraph (e),

The additions and revision read as follows:

§301.6103(j)(1)-1 Disclosure of return information reflected on returns to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(xxix) Total number of documents reported on Form 1096 transmitting  
Forms 1099-MISC.

(xxx) Total amount reported on Form 1096 transmitting Forms 1099-MISC.

\* \* \* \* \*

(e) Effective/applicability date. Paragraphs (b)(3)(xxv), (b)(3)(xxix), and (b)(3)(xxx) of this section apply to disclosures to the Bureau of the Census made on or after **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN FEDERAL REGISTER]**. For rules that apply to disclosures to the Bureau of the Census before that date, see 26 CFR 301.6103(j)(1)-1 (revised as of April 1, 2013).

**§301.6103(j)(1)-1T [Removed]**

Par. 3. Section 301.6103(j)(1)-1T is removed.

Heather C. Maloy

Acting Deputy Commissioner for Services and Enforcement

Approved: August 19, 2013

Mark J. Mazur

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013-21006 Filed 08/26/2013 at 8:45 am; Publication Date: 08/27/2013]